

MONTANA LEGISLATIVE HISTORY

Chapter 262 19 71

Bill H _____ S 51 Original bill & history ____c

H. Committee on Judiciary

Hearing Date(s) Feb 15 ✓c

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Date Out _____c

S. Committee on Judiciary

Hearing Date(s) Jan 15 ✓c

Jan 18 ✓c

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

SENATE JUDICIARY COMMITTEE MEETING - January 15, 1971

The meeting was called to order by the Chairman, Senator Gilfeather. All the members were present except Senator Sheehy, Senator Stephens and Senator Vainio, who came a little later to the meeting.

Senate Bill 60 was considered. It was explained by its prime sponsor, Senator Deschamps. He called upon a proponent of this bill, Mr. John Doyle of Missoula, representing the Montana Coin Machine Operators. Also appearing as a proponent was Mr. Frank W. Freeburg, representing the American Music Company. Senator Hafferman stated he was in favor of the bill also. The proponents of Bill 60 then were excused by the Chairman and they left the meeting.

Senate Bill 51 was brought before the committee. Senator Neil J. Lynch, spoke in favor of the bill, at some length. Senator Frank Hazelbaker also spoke in favor of the bill. Senator Lynch told Chairman Gilfeather that if the committee wants to amend the bill he has no objection. Mr. Chadwick Smith, representing the American Mutual Insurance Alliance, spoke briefly. Also present at this hearing was Legislative Intern, Thomas Cannon. The Chairman excused the above gentlemen at this point.

Senate Bill 25 was now presented. Senator Lynch and Intern Cannon remained for the hearing of this bill. Mr. Vern Sloulin, Chief of the General Sanitation Section of the Board of Health, spoke in support of this bill. Also present from the Board of Health was Mr. C.H. Dickman, who spoke in favor of the bill. Chairman Gilfeather said the committee knows what the problem is and the main thing the Board of Health is interested in and that the committee will contact the Board of Health one way or the other. At this time the two Board of Health men left the meeting.

Senate Bill 21 was introduced. Senator Lynch and the Intern remained for this bill also. Senator Turnage asked if Senate Bill 21 could be set for a hearing on January 22. This was done.

The secretary was instructed to write to the Reorganization Committee, the Trial Attorneys, the State Board, or in other words, to Mr. Gene Huntley, Mr. Edward Alexander, to Senator Luke McKeon and to Mr. William Crowley, care of the Governor's office.

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Page 2.

Senate Bill 48 was considered. Senator Lynch and Intern Tom Cannon were present for this also. Senators Lynch and Stephens explained this bill. Mr. Chadwick Smith spoke regarding this bill also. The Chairman thanked the gentlemen for appearing and they left.

Senate Bill 86 was brought before the committee. Senator Lynch and Intern Cannon were present for this. Senator Moore explained the bill briefly and he and the Chairman discussed it. Senator Lynch said he is opposed to this bill. Chairman Gilfeather at this time explained the bill to Senator Lynch. Senator Lynch and Intern Cannon left the meeting.

THE COMMITTEE NOW WENT IN SESSION REGARDING THE BILLS HEARD.

Senator Turnage moved that Senate Bill 60 DO PASS. For a brief time there was discussion. There was a SUBSTITUTE MOTION THAT THE BILL DO NOT PASS, SECONDED BY SENATOR SHEA. Here a ROLL CALL VOTE WAS TAKEN and the result was 2 YES and 6 NO. Senator Turnage moved that the committee pass consideration. Senator Hafferman made a SUBSTITUTE MOTION FOR ALL MOTIONS PENDING THAT IT DO PASS. Senator Stephens made a SUBSTITUTE MOTION FOR ALL MOTIONS PENDING THAT SENATE BILL 60 BE AMENDED on page 2, 16, following the word "than" by restoring the words "two hundred" and on line 17, following the word "dollars" by restoring the bracketed figures "\$200.00", and on line 18, following the word "than" by restoring the words and numerals "sixty (60) days" and to delete on page 2, line 17 the underlined words "one thousand" and on line 18 to delete the underlined words and numeral "six (6) months". Senator Stephens MOVED THAT SENATE BILL 60, AS AMENDED, DO PASS. This motion was seconded by Senator Hafferman.

Senate Bill 51 was brought up and Senator Moore said to the Chairman that he MOVES A PASS CONSIDERATION OF THIS BILL. The word "rescission" was discussed.

Senate Bill 25 was considered. Senator Turnage said he would move to kill it. Chairman Gilfeather said he would favor it. A discussion followed by the two Senators. The Chairman suggested that Senators Turnage, Shea and Stephens contact the Board of Health and the committee make a PASS CONSIDERATION OF THIS FOR NOW.

SENATE JUDICIARY COMMITTEE MEETING -- January 18, 1971

The meeting was called to order by the Chairman, Senator Gilfeather. All the members were present except Senator Vainio.

Senate Bill 51 was discussed and it was decided to amend it quite extensively.

Senate Bill 95 was considered. Senator Turnage MOVED THAT SENATE BILL 95 be laid on the table.

Senate Bill 119 was brought up. Senator Turnage read from the Montana Codes, regarding this bill, at the suggestion of Chairman Gilfeather. Senate Bill 119 was given a DO PASS by the committee.

There being no further business to come before the committee, the meeting was adjourned.



Senator P. J. Gilfeather, Chairman

February 15, 1971

JUDICIARY COMMITTEE

The meeting was called to order in room 300 of the capitol on Monday, February 15 at 9 a.m. by Chairman Jeffrey J. Scott. All members were present with the exception of Mr. Warfield.

SENATE BILL 51

Senator Lynch, District 23, gave a description of this bill which establishes a law concerning cancellation of automobile liability insurance policies. Senator Hazelbaker, who sells insurance, gave a statement in support of this bill. Senator McKeon offered a model bill that he hoped this committee would consider. Chadwick H. Smith, representing the American Mutual Insurance Alliance, suggested amendment adding another section on this bill. Senator Moore gave a statement testifying that he felt that paragraph 9 should be put back in the bill. There were no further witnesses and no questions were asked. The hearing on this bill was closed.

SENATE BILL 140

Senator Lynch gave a description of this bill which would provide for a penalty for filing a claim for the direct payment of money in an improper venue, if the plaintiff will not stipulate for such change within 10 days after request and a change of venue is granted. Mr. J. R. Richards, Assistant Director of the Montana Legal Services, appeared in support of this bill. There were no further witnesses and the hearing on this bill was closed.

SENATE BILL 86

Senator Jim Moore from District 12 gave a description of this bill, which provides that attorney's fees may not be recovered under section 93-8614, unless materialmen give notice to landowners prior to delivery of material that they plan to use a lien to recover any losses not recoverable from contractors. There were no further proponents. Senator Lynch appeared in opposition to this bill. Questions were asked and the witnesses were excused.

SENATE BILL 4

This bill had been in this committee previously and no proponents appeared. Mr. John Cadby representing the Montana Automobile Dealers Association, gave testimony in opposition to this bill. Socs Vratiss, representing the Montana Retail Association, gave a statement opposing this bill. Mr. Ray Fischer, representing the Montana Chamber of Commerce, suggested an amendment he felt should be on this bill. Mr. DeWayne Harding, representing himself, as an insurance agent, spoke in opposition to this bill. Questions were asked and the hearing on the bill was closed.

EXECUTIVE SESSION

SENATE BILL 51

Mr. Hall moved that the bill be amended on page 5 by adding an addition section 8, and amended on page 1, line 23 by striking the material after the word "based". (See committee report.) Motion carried. A motion was made that Senate Bill 51 BE CONCURRED IN AS AMENDED. Motion carried.

SENATE BILL 140

A motion was made that Senate Bill 140 do pass. Mr. Mather made a substitute motion that the bill be amended on page 2, line 4, after the word "including" by adding the word "reasonable" and after the material "fees," by adding the material "to be fixed by the court". Motion carried. Mr. Hall moved do pass as amended. After some discussion, Mr. Hall withdrew his motion and as a substitute motion moved that the bill be passed for the day. Motion carried.

SENATE BILL 86

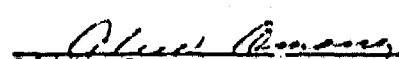
Mr. Mather moved that Senate Bill 86 do not pass. Mr. Towe made a substitute motion that the bill be amended on page 2, line 12 after the material "owner," by striking the material "prior to the" and inserting in lieu thereof the material "within 60 days of the first". Motion carried. Mr. Hall made a substitute motion that Senate Bill 86 BE CONCURRED IN AS AMENDED. Motion carried.

SENATE BILL 4

Mr. Greely moved that Senate Bill 4 do pass. Mr. Mather made a substitute motion that the bill be amended on page 2, lines 17 through 22 by striking all the material on these lines, and further amended on line 12 by striking the word "or" and inserting in lieu thereof the word "and" and as so amended do not pass. Mr. Towe made a substitute motion that on line 5, page 2 after the word "with" strike the words "or call on" and after the material "residence," by adding the material "excluding phone calls". Mr. Towe's motion carried. A vote was taken on the motion that Senate Bill 4 do not pass. The vote was tied 6 to 6. Mr. Murphy moved that Senate Bill 4 do pass as amended. Motion failed 6 to 6. A motion was made that the bill be placed on second reading as amended without recommendation. Motion failed 6 to 6. Mr. Scott moved that the bill be laid on the table. Motion failed 6 to 6. Mr. Towe moved that the bill be passed for the day. Motion carried.

There being no further business before the committee, the meeting was adjourned.


Jeffrey J. Scott, Chairman


Alice Omang, Secretary

is not a patient in a medical institution as a result of having been diagnosed as having tuberculosis or psychosis; however, this does not preclude medical payments made to any institution in behalf of any eligible resident thereof;

Does not preclude medical payments.

Is not receiving other aid.

(f) Is not receiving old age assistance, aid to dependent children or aid to needy blind for himself or herself."

Approved March 10, 1971.

CHAPTER NO. 262.

An Act to Establish a Law Concerning Cancellation of Automobile Liability Insurance Policies.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Notwithstanding any other provision of this code, no cancellation by an insurer of an auto liability insurance policy shall be effective prior to the mailing or delivery to the named insured at the address shown in the policy, of a written notice of the cancellation stating when, not less than thirty (30) days after the date of such mailing or delivery, the date the cancellation shall become effective.

Section 2. Whenever an insurer gives notice of cancellation of an automobile liability policy, upon request of the insured, the insurer, within fifteen (15) days of receipt of the request, shall furnish to the insured a statement setting forth the ground or grounds upon which the notice of cancellation is based. If the insurer fails to comply with the provisions of this section, the insured may apply to the commissioner for a certificate of the facts or information desired. The commissioner shall exercise any power conferred upon him by law as may be necessary to ensure compliance with this section.

Section 3. (1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(a) Nonpayment of premium; or

(b) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an

automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date.

(2) This section shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(3) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars (\$100) shall not be deemed a cancellation of the coverage or of the policy.

(4) This section shall not apply to nonrenewal.

Section 4. No notice of cancellation of a policy to which section 3 applies shall be effective unless mailed or delivered by the insurer to the named insured at least thirty (30) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium, at least ten (10) days' notice of cancellation accompanied by the reason therefor shall be given. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation.

This section shall not apply to nonrenewal.

Section 5. No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least thirty (30) days' advance notice of its intention not to renew. Such notice shall contain or be accompanied by a statement that upon written request made not later than one (1) month following the termination date of the policy of the named insured mailed or delivered to the insurer, the insurer will notify the insured in writing, within fifteen (15) days of his request, the reason or reasons for such nonrenewal; provided, however, that notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other re-

Exemptions.

30 day notice required.

Exception.

Duty to specify reason.

Exception.

30 day notice of intent not to renew.

Duty to specify reason on request.

Termination.

placement or succeeding automobile liability insurance policy procured by the insured, with respect to any automobile designated in both policies. This section shall not apply where the named insured has failed to discharge when due any of his obligations in connection with the payment of premiums for the policy, or the renewal thereof, or any installment payments therefor, whether payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit. This section shall not apply in any of the following cases:

Exemptions.

Failure to pay premiums.

Willingness to renew.

Nonpayment.

Termination.

Other coverage.

Renewal not waiver.

Proof of mailing.

Penalties for violations.

Nonliability.

(a) If the insurer has manifested its willingness to renew.

(b) In case of nonpayment of premium; provided that, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

(c) If the insured's agent or broker has secured other coverage acceptable to the insured at least twenty (20) days prior to the anniversary date of the policy or termination of the policy period.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

Section 6. Proof of mailing of notice of cancellation, or of intention not to renew or of reasons for cancellation, to the named insured at the address shown in the policy or to the named insured's latest known address, shall be sufficient proof of notice.

Section 7. Any insurer willfully violating any provisions of section 4 is guilty of a misdemeanor and is punishable by a fine of not exceeding five hundred dollars (\$500) for each violation thereof.

Section 8. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the insurance commissioner or against any insurer, its authorized representative, its agents, its employees or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or for statements

made or evidence submitted at any hearings conducted in connection therewith.

Approved March 10, 1971.

CHAPTER NO. 263.

An Act to Amend Sections 75-7125 and 75-8305, R.C.M., 1947, to Allow Trustees of School Districts to Employ Licensed Attorneys to Assist the County Attorney in Connection with School Board Business.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-7125, R.C.M., 1947, is amended to read as follows:

Amending clause.

"75-7125. **County attorney to assist in the proceedings.** The trustees of any school district conducting bond proceedings shall prepare and maintain a transcript of their bond proceedings. It is a part of the official duties of the county attorney of every county of this state to advise and assist the trustees of each school district of his county in its bond proceedings. Before any transcript of school district bond proceedings is sent to the state board of land commissioners, he shall carefully examine such transcript, and the transcript shall not be sent until he has attached his opinion to the transcript that the proceedings are in full compliance with law. *The trustees of any school district, however, may, upon consent of the county attorney, employ any attorney licensed in Montana to assist the county attorney in the performance of his duties.*"

Transcript of bond proceedings.

Duty of county attorney to assist.

Opinion.

Trustees may employ other counsel.

Section 2. Section 75-8305, R.C.M., 1947, is amended to read as follows:

Amending clause.

"75-8305. **Duty of county attorney.** *Upon request of the county superintendent or the trustees of any school district, the county attorney shall be their legal adviser and shall prosecute and defend all suits to which such persons, in their capacity as public officials, may be a party, however, the trustees of any school district may, upon consent of the county attorney, employ any attorney licensed in Montana to perform any legal services in connection with school board business.*"

Upon request—duty of county attorney to county superintendent and school trustees.

Employment of other counsel.

Approved March 10, 1971.